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**Conference of the States Parties to the United Nations Convention against Corruption**

**Tenth session**

Atlanta, United States of America, 11–15 December 2023

Item 5 of the provisional agenda\*

**Other matters**

**Conference room paper submitted by the Governments of Kenya and Switzerland: Report of the International Expert Meeting on Asset Return and the Agenda 2030 for Sustainable Development: challenges, opportunities and the way forward\*\***

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Swiss Agency for Development and Cooperation SDC

# International Expert Meeting on Asset Return and the Agenda 2030: *challenges, opportunities and the way forward*

**28-29 November 2022**  
United Nations Office at Nairobi  
Conference Room 1  
Nairobi



# Report of the International Expert Meeting on Asset Return and the Agenda 2030 for Sustainable Development: challenges, opportunities and the way forward

28–29 November 2022

Venue: *United Nations Office at Nairobi*

## I. AGENDA

Monday, 28 November 2022	
08.30–09.00	<b>Registration</b>
09.00–09.30	<p><b>Opening</b> [hybrid]</p> <p>Master of ceremony: Brig. Alice M Mate, Director, Assets Recovery Agency, Kenya</p> <ul style="list-style-type: none"> <li>• Welcome remarks by Mr. Shervin Majlessi, Chief, Convention Support Section, UNODC</li> <li>• Welcome remarks by His Excellency Mr. Valentin Zellweger, Ambassador of Switzerland to Kenya</li> <li>• Welcome remarks by His Excellency Mr. Justin Muturi, Attorney-General, Kenya</li> </ul> <p><b>Tour de table</b></p> <ul style="list-style-type: none"> <li>• Introduction of participants</li> </ul>
SESSION I: Where do we stand in 2022: Asset recovery and asset return [hybrid]	
09.30–10:30	<ul style="list-style-type: none"> <li>• UNCAC as framework for asset recovery <ul style="list-style-type: none"> <li>◦ Ms. Sophie Meingast, Crime Prevention and Criminal Justice Officer, UNODC</li> </ul> </li> <li>• International recoveries and returns of stolen assets under UNCAC <ul style="list-style-type: none"> <li>◦ Mr. Emile van der Does de Willebois, Coordinator, Stolen Asset Recovery (StAR) Initiative</li> </ul> </li> <li>• Practical implementation of asset return under UNCAC – analytical overview <ul style="list-style-type: none"> <li>◦ Mr. Michael Burke, Asset return expert</li> </ul> </li> </ul>
[Q&A]	<p><b>Moderator:</b> Ms. Andrea Iff, Policy Advisor Asset Recovery, Deputy Head Peace, Governance and Equality Section, Swiss Agency for Development Cooperation SDC, Federal Department of Foreign Affairs</p> <p><b>Objective of the session:</b> In this session, experts will explore the asset recovery framework provided by the UN Convention against Corruption, which will serve as a basis for discussion of cases and lessons learned in the subsequent sessions. To enrich the discussion, speakers will provide a quantitative overview on assets returned since 2010 and an analysis of new cases and lessons learned.</p>
10:30–10:45	Coffee Break

**SESSION II: Revisiting Sustainable Development and asset return [hybrid]**

10:45–12:00	<ul style="list-style-type: none"> <li>• Shared objectives of the 2030 Agenda for Sustainable Development and asset return aspects <ul style="list-style-type: none"> <li>○ Mr. Rakhymzhan Assangazyev, Senior Operations Officer at the World Bank Office in Uzbekistan</li> </ul> </li> <li>• Progress made since the start of the asset return and sustainable development meeting series <ul style="list-style-type: none"> <li>○ Ms. Andrea Iff, Policy Advisor Asset Recovery, Deputy Head Peace, Governance and Equality Section, Swiss Agency for Development Cooperation SDC, Federal Department of Foreign Affairs, Switzerland</li> </ul> </li> <li>• Financing for Development and other New York-based processes <ul style="list-style-type: none"> <li>○ Mr. Gilberto Duarte Santos, Crime Prevention and Criminal Justice Officer, UNODC <i>[online]</i></li> </ul> </li> </ul>
[Q&A]	<p><b>Moderator:</b> Brig. Alice M Mate, Director, Assets Recovery Agency, Kenya</p> <p><b>Objective of the session:</b> The aim of this session is to discuss how asset recovery and return can contribute to the achievement of the 2030 Agenda for Sustainable Development. Discussions will be guided by questions based on the recommendations that emanated from the Addis II meeting.</p>
12:00–14.00	Lunch and group photo

**SESSION III: Asset return and sustainable development in practice I: recent cases [in-person]**

14:00–15:45	<p>Practical examples of cases and information on connections made with sustainable development considerations:</p> <ul style="list-style-type: none"> <li>• Switzerland and Uzbekistan <ul style="list-style-type: none"> <li>○ His Excellency Mr. Ilkhom Norkulov, First Deputy Minister, Ministry of Economic Development and Poverty Reduction, Uzbekistan</li> <li>○ His Excellency Mr. Christian Frutiger, Ambassador, Vice-Director General, Swiss Agency for Development Cooperation SDC, Federal Department of Foreign Affairs, Switzerland</li> <li>○ Mr. Jonas Astrup, Senior Programme Management Officer, United Nations Resident Coordinator Office, Uzbekistan</li> </ul> </li> <li>• Peru and the United States of America <ul style="list-style-type: none"> <li>○ Ms. Mary Butler, Chief, International Unit, Money Laundering and Asset Recovery Section, Department of Justice, United States of America</li> <li>○ Mr. Gonzalo Bonifaz Tweddle, Senior Advisor, Ministry of Foreign Affairs, Peru</li> </ul> </li> <li>• Chile and Honduras <ul style="list-style-type: none"> <li>○ Mr. Mauricio Fernández Montalban, Director, Anti-Money Laundering Unit, Prosecutor-General's Office, Chile</li> <li>○ Mr. Javier Luis Santos Cruz, Anti-Money Laundering Unit, Prosecutor-General's Office, Honduras</li> </ul> </li> </ul>
[Discussion]	<p><b>Moderator:</b> Mr. Iker Lekuona, Head of Programmes, International Centre for Asset Recovery (ICAR)</p> <p><b>Objective of the session:</b> This session aims to share lessons learned from practical asset return cases and address how asset return can contribute to the achievement of the Sustainable Development Goals.</p>
15:45–16:00	Coffee Break

16.00–17:00	<b>SESSION IV: Round table: Reflections on challenges and good practices on asset return</b> [in- person]
[Discussion]	<p><b>Moderator:</b> Mr. Shervin Majlessi, Chief, Convention Support Section, UNODC</p> <p><b>Objective of the session:</b> The objective of this session is to discuss the main challenges and good practices related to asset return and the contributions that asset return can make to the achievement of the 2030 Agenda for Sustainable Development. To this end, the discussions will take into account the general recommendations for dealing with cases of asset return and disposal made by experts during the Addis II meeting, the GFAR principles and other relevant initiatives.</p>

### Tuesday, 29 November 2022

<b>SESSION V: Asset return and sustainable development in practice II: recent cases</b> [in-person]	
09.00–10.30	<p>Practical examples of cases and information on connections made with sustainable development considerations:</p> <ul style="list-style-type: none"> <li>• Jersey and Kenya <ul style="list-style-type: none"> <li>○ Ms. Wanjiku Wakogi, Special Legal Advisor, and Mr. Clinton Mwita, Senior Legal Officer, Executive Office of the President, Kenya</li> <li>○ Mr. Thomas F. LeFeuvre, Director of External Relations, Government of Jersey; Mr. Frederick Holmes, Principal External Relations Officer, External Relations, Government of Jersey; and Crown Agents, Jersey</li> </ul> </li> <li>• Malaysia and the United States of America <ul style="list-style-type: none"> <li>○ Ms. Mary Butler, Chief, International Unit, Money Laundering and Asset Recovery Section, Department of Justice, United States of America</li> <li>○ Mr. Asrul Ridzuan B Ahmad Rustami, Head of Anti-Money Laundering Branch, Malaysian Anti-Corruption Commission, Malaysia</li> </ul> </li> <li>• Mongolia <ul style="list-style-type: none"> <li>○ Mr. Azjargal Gavaasuren, Deputy Commissioner General, Independent Authority against Corruption, Mongolia</li> </ul> </li> </ul>
[Discussion]	<p><b>Moderator:</b> Mr. Emile van der Does de Willebois, Coordinator, Stolen Asset Recovery (StAR) Initiative</p> <p><b>Objective of the session:</b> This session aims to share lessons learned from practical asset return cases and address how asset return can contribute to the achievement of the Sustainable Development Goals.</p>
10:30–10:45	Coffee Break

<b>SESSION VI: Reaping the rewards – the effect of asset returns on sustainable development</b> [in-person]	
10:45–12:00	<ul style="list-style-type: none"> <li>• Kazakhstan <ul style="list-style-type: none"> <li>○ Mr. Baurzhan Kurmanov, Head of the Department for International Cooperation of the Prosecutor General’s Office of Kazakhstan, Kazakhstan <i>[online]</i></li> </ul> </li> <li>• Nigeria <ul style="list-style-type: none"> <li>○ Ms. Juliet Ibekaku-Nwagwu, Adviser to the President on Justice Sector Reform/International Relations, Nigeria</li> <li>○ Mr. David Ugolor, Executive Director, ANEEJ</li> <li>○ Mr. Peter Gad, Executive Director, CLEEN Foundation</li> </ul> </li> </ul>

[Discussion]	<p><b>Moderator:</b> Ms. Jennifer Gitiri, Deputy Director, Legal Services, Assets Recovery Agency, Kenya</p> <p><b>Objective of the session:</b> This session aims to showcase concrete examples in which returned assets contributed towards the achievement of the Sustainable Development Goals.</p>
12:00–14:00	Lunch

### SESSION VII: Asset return and the compensation of victims of corruption [in-person]

14:00–15:15	<ul style="list-style-type: none"> <li>○ Mr. Lucio Alves Angelo Jr., Ph.D. Candidate in Rule of Law and Global Governance, University of Salamanca</li> <li>○ Ms. Juanita Olaya Garcia, Consultant, StAR Initiative <i>[online]</i></li> <li>○ Mr. François Valérian, Member of the international board of Transparency International and of the board of Transparency France <i>[online]</i></li> </ul>
[Discussion]	<p><b>Moderator:</b> Mr. Felipe Falconi, Crime Prevention and Criminal Justice Officer, UNODC</p> <p><b>Objective of the session:</b> Bearing in mind the consensus about the damaging effects of corruption and the impact on sustainable development,<sup>1</sup> this session aims to contribute to the ongoing debate on the compensation of victims of corruption and the main challenges in this regard. Due to the potential of victim compensation to contribute to the achievement of the Sustainable Development Goals, the session will focus on the compensation of social damages, i.e., the compensation of damages caused to an unidentified group of people without specific legal personality, mainly due to violations of diffuse and collective rights, recognized under national and international law.</p>
15:15–15:25	Coffee Break

### Conclusion and way forward [in-person]

15:25–15.50	<p><b>Round table: Reflection on discussions and the way forward</b></p> <p><b>Moderator:</b> Mr. Shervin Majlessi, Chief, Convention Support Section, UNODC</p> <p><b>Session notes:</b></p> <p><i>This session will focus on areas that require further knowledge and capacity-building and suggest potential next steps.</i></p>
15.50–16.15	<p><b>Closing remarks</b></p> <p>Master of Ceremony: Mr. Saitoti Maika, Director General, Financial Reporting Centre, Kenya</p> <ul style="list-style-type: none"> <li>• Mr. Neil Walsh, Representative, Regional Office for East Africa, UNODC</li> <li>• Mr. Stephen Jackson, United Nations Resident Coordinator in Kenya</li> <li>• His Excellency Mr. Christian Frutiger, Ambassador, Vice-Director General, Swiss Agency for Development Cooperation SDC, Federal Department of Foreign Affairs</li> <li>• His Excellency Mr. Njuguna Ndung’u, Cabinet Secretary of the National Treasury and Economic Planning, Kenya</li> </ul>

<sup>1</sup> Article 57, paragraph 3, of the Convention states that “the requested State Party shall [...] in all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime”.

## II. Background

The United Nations Convention against Corruption (the “Convention” or “UNCAC”) establishes the return of assets as a “fundamental principle” of the Convention and stipulates that States parties shall afford one another the widest measure of cooperation and assistance in that regard (article 51).

The United Nations Sustainable Development Goals (SDGs), adopted in 2015, provide a shared blueprint for peace and prosperity for people and the planet. In particular, States committed to significantly reduce, by 2030, illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime (Sustainable Development Goal (SDG) 16.4); to develop effective, accountable and transparent institutions at all levels (SDG 16.6); to strengthen domestic resource mobilization (SDG 17.1) and to mobilize additional financial resources for developing countries from multiple sources (SDG 17.3).

Since the adoption of the SDGs, the important role that returned assets can play towards the achievement of the SDGs has been acknowledged by several international fora:

In 2017, the Economic and Social Council Forum on Financing for Development follow up (“FfD Forum”) encouraged States to strengthen international cooperation on the recovery and return of stolen assets, recognized that asset return was a priority and supported “continued exchanges on the development of good practices on asset return”.<sup>2</sup>

Furthermore, in the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation” adopted by the General Assembly at its special session against corruption held in 2021, Member States recognized the importance of asset recovery and return in the fight against corruption and that it, inter alia, contributes to fostering sustainable development and promoting justice and the rule of law at all levels and in all States.<sup>3</sup>

Similarly, the Conference of the States Parties (COSP) to the Convention adopted resolution 7/1 at its seventh session, encouraging States parties to make full use of the possibility of concluding agreements or mutually acceptable arrangements for the return and final disposal of confiscated property pursuant to article 57, paragraph 5, of UNCAC and to consider the SDGs in the use and management of recovered assets. In its resolution 9/2, the Conference of the States Parties to the Convention requested the secretariat and invited the Stolen Asset Recovery Initiative, to, inter alia, expand the global knowledge and data collection on asset recovery and return through gathering and sharing information on challenges and good practices, as well as on volumes of assets frozen, seized, confiscated and returned in relation to corruption offences.<sup>4</sup> In addition, the Political Declaration “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, adopted by the Special session of the General Assembly against Corruption, held from 2 to 4 June 2021.<sup>5</sup>

This Expert Meeting series offers a platform to bring the Convention, the sustainable development and the financing for development agenda together. Two meetings have taken place until now: A first International Expert Meeting on **the management and disposal of recovered and returned stolen assets**, including in support of sustainable development was held in Addis Ababa in February 2017 (Addis I). The meeting was

<sup>2</sup> See [E/FFDF/2017/3](#), para. 10. The progress made on developing good practices on asset return to foster sustainable development was welcomed in the 2018 report, see [E/FFDF/2018/3](#), para. 12.

<sup>3</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/138/82/PDF/N2113882.pdf?OpenElement>, paragraph 42.

<sup>4</sup> [www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-2](http://www.unodc.org/unodc/en/corruption/COSP/session9-resolutions.html#Res.9-2), paragraph 15.

<sup>5</sup> See paras. 42, 48 and 49: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/138/82/PDF/N2113882.pdf?OpenElement>.

convened by the Governments of Ethiopia and Switzerland and UNODC and brought together for the first time asset recovery practitioners and Financing for Development experts. Subsequently, a second International Expert Meeting on the Return of Stolen Assets (Addis II), held in Addis Ababa in May 2019, analysed successful asset return cases, and identified trends and developments, thereby discerning common **challenges to international cooperation in the return of assets** and innovative ways at overcoming them. The meeting also aimed at discussing ways to ensure transparency and accountability in the asset return process and developed general recommendations for States parties to the Convention to consider when dealing with cases of asset return and disposal. Experts noted that more information on concluded agreements was needed to draw more concrete lessons and learn from past practice.<sup>6</sup>

In 2020, the United Nations General Assembly noted the second International Expert Meeting on the Return of Stolen Assets, held in Addis Ababa from 7 to 9 May 2019, and encouraged the continuation of its work in advancing efforts to strengthen the recovery and return of stolen assets in support of sustainable development.<sup>7</sup>

### III. Objectives of the Meeting

In view of the above, including the recommendations and the need for additional information on asset return that were expressed at the second expert meeting and at subsequent meetings of the Asset Return Working Group, a third meeting in this series was convened with the aims to:

- (a) continue the dialogue between the different practitioners from requesting and requested States; development practitioners; diplomats, and international organizations.
- (b) examine how asset recovery and asset return can contribute to the achievement of the Agenda 2030, support the Financing for Development Process and contribute to the Addis Ababa Action Agenda; and
- (c) exchange and learn from latest developments, including recent successful asset return cases.

### IV. Opening

The meeting was opened by His Excellency Mr. Justin Muturi, Attorney-General of Kenya, His Excellency Mr. Valentin Zellweger, Ambassador of Switzerland to Ethiopia, and by Shervin Majlessi, Chief, Convention Support Section, UNODC.

Shervin Majlessi, Chief of the Convention Support Section of UNODC, welcomed participants to the expert meeting. He thanked the Governments of Kenya and Switzerland for their support and outlined one of the objectives of the expert meeting, namely the identification of good practices on asset return in line with the Convention, the Addis Ababa Action Agenda and SDG 16. He noted the progress that had been made since 2017, when such work had started, and drew experts' attention to the principles for disposition and transfer of confiscated stolen assets adopted at the Global Forum on Asset Recovery (GFAR).

H.E. Mr. Valentin Zellweger, Ambassador of Switzerland to Kenya, expressed his gratitude to Kenya for hosting the event and to UNODC for its support. Mr. Zellweger highlighted the importance of asset recovery in the Addis Ababa Action Agenda and reiterated the need to ensure that crime did not pay. In addition, he underscored the need for case-by-case solutions in asset return as there was no one-size-fits-all model. In relation to asset return, Mr. Zellweger informed the experts that Switzerland had

<sup>6</sup> More information on Addis I and Addis II expert meetings can be found at: [Addis I](#) and [Addis II](#). Information on the international expert meeting in Nairobi can be found at: Nairobi EGM 2022 ([www.unodc.org](http://www.unodc.org)).

<sup>7</sup> <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/RES/75/206&Lang=E>, paragraph 15.



returned a combined amount of more than USD 2.2 billion to requesting States and referred to a recent example in which stolen assets had been returned to Uzbekistan to support sustainable development efforts. Underscoring the need for a partnership between requesting and requested States as described in the GfAR principles, Mr. Zellweger reiterated the need for close cooperation, transparency and accountability to ensure successful asset returns.

In his opening remarks, H.E. Mr. Justin Muturi, Attorney-General of Kenya, underscored the link and the mutual reinforcement between asset return and sustainable development and highlighted the critical role of asset recovery and asset return in supporting the rule of law, institutional transparency and accountability. He referred to the commitment undertaken by States to significantly reduce, by 2030, illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime (SDG 16.4). Furthermore, Mr. Muturi informed the experts of the efforts that Kenya had undertaken to establish relevant legal policy and build the institutional framework for asset recovery. In addition, he noted the Framework for Return of Assets from Corruption and Crime (FRACCK) Agreement signed between the Government of Kenya, the Swiss Federal Council, the Government of the United Kingdom and the Government of Jersey and briefed the experts on its contents. He concluded by reaffirming Kenya's support for the successful conclusion of the meeting.

## V. Session I – State of knowledge

Session I was moderated by Andrea Iff, Policy Advisor Asset Recovery, Deputy Head Peace, Governance and Equality Section, Swiss Agency for Development Cooperation SDC, Federal Department of Foreign Affairs. This session aimed at providing an overview of the Convention as a framework for asset recovery and asset return.

- UNCAC as framework for asset recovery

Sophie Meingast from UNODC provided an overview of the United Nations Convention against Corruption and highlighted that the Convention was the only universal legally binding anti-corruption instrument, with 189 States parties at the time of the meeting. She noted that the Convention referred to sustainable development in two out of the three first preambular paragraphs and underscored that the Convention took a broad approach to the problem of corruption, addressing not only criminalization and law enforcement (Chapter III of the Convention), but also prevention (Chapter II), international cooperation (Chapter IV) and asset recovery (Chapter V). In keeping with the focus of the meeting, she provided further information on Chapter V of the Convention, noting that the Convention provided rules and mechanisms for cooperation with a view to facilitating the recovery of proceeds of corruption offences and their return to requesting States. Furthermore, she underscored that article 51 of the Convention established the return of proceeds of corruption as a “fundamental principle” of the Convention, briefed the experts on the work of the Conference and its subsidiary bodies, such as the Open-ended Intergovernmental Working Group on Asset Recovery, and shared information on the good practices and challenges in the implementation of Chapter V of the Convention that had been identified through the Implementation Review Mechanism.

- International recoveries and returns of stolen assets under UNCAC

Emile van der Does de Willebois, Coordinator of the Stolen Asset Recovery (StAR) Initiative, shared information on international recoveries and returns of stolen assets under the Convention from 2010 to 2021 that the StAR Initiative had gathered.<sup>8</sup> Based

<sup>8</sup> More information on the matter can be found on the Note prepared by UNODC in collaboration with the StAR Initiative entitled Collection of information on international asset returns, including challenges, good practices and lessons learned (available at [CAC-COSP-WG.2-2022-3](#)) and on the Conference Room Paper prepared by the StAR Initiative and presented during the

on 87 responses received to the questionnaires on the matter, 140 asset return cases had been analysed. Mr. van der Does de Willebois continued to provide an overview of the main findings of the study, highlighting that (a) more States from a wider geographic background had been involved in pursuing cross-border an increasing number of asset recovery cases, (b) an increase in the amounts of assets returned, with – since – 2010 USD 9.7 billion that had been either frozen, restrained confiscated in a destination country or returned to a country harmed by corruption, (c) an increase in the legal mechanisms available, with growing importance of non-conviction based confiscation, even though conviction-based confiscation was still the most frequently cited legal mechanism for cross-border asset recovery efforts, and (d) the increasing importance of using the Convention as a legal basis for cross-border cooperation in asset recovery efforts. Nevertheless, he noted the need for further improvement, especially in relation to better data collection mechanisms and to developing transparency norms for the recovery and return of corruption proceeds and for how returned funds are being used.

- Practical implementation of asset return under UNCAC – analytical overview

Michael Burke, lead author of the draft UNODC knowledge product on asset return, entitled “Confiscated Asset Returns and the United Nations Convention Against Corruption: A Net for All Fish”, provided the experts with an overview of the draft knowledge product, which focused on post-confiscation cross-border asset returns. The paper, which had been designed as a resource for asset recovery and asset return practitioners aimed to (a) examine more in detail the provisions of article 57 of the Convention on the return and disposal of assets, (b) study how the provisions of article 57 interplayed with domestic laws and programmes and other agreements, (c) present 16 successful asset return cases and 5 *ad hoc* asset return agreements, and (d) share research tools and suggested approaches for supporting successful asset returns. In particular, the paper provided a list of potential questions that practitioners from requesting and requested States may wish to consider from the outset of a case that could involve asset return to ensure that considerations around an eventual return of the assets are kept at the forefront of the efforts made to recover the assets throughout the entire process of asset recovery and asset return. The draft knowledge product had been disseminated to the experts ahead of the meeting and experts were given the opportunity to share any comments on the paper after the meeting.

## VI. Session II – Revisiting Sustainable Development and asset return

Session II was moderated by Brigadier Alice Mate, Director of the Assets Recovery Agency of Kenya. The session aimed at discussing how asset recovery and return can contribute to the achievement of the 2030 Agenda for Sustainable Development. During this session the following three presentations were made:

- Shared objectives of the 2030 Agenda for Sustainable Development and asset returns aspects

Rakhymzhan Assangazyev, Senior Operations Officer at the World Bank Office in Uzbekistan, started his intervention by referring to the links between sustainable development and asset return and how asset recovery can contribute to many of the Sustainable Development Goals (SDGs). He highlighted SDG 16 and SDG 17, namely target 16.4 “By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime” and target 17.1 “Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection”. In addition, he referred to the challenges in measuring

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Ninth session of the COSP: [“Mapping international recoveries and returns of stolen assets under UNCAC: an insight into the practice of cross-border repatriation of proceeds of corruption over the past 10 years.”](#)

progress on the SDGs, specifically those related to asset recovery. The reasons listed for this included (a) the lack of data and capacity in certain cases, (b) political challenges (even in cases where data exists), and (c) methodological challenges. He concluded by emphasizing that institutional capacity, robust legal systems and political will constituted necessary elements for successful asset returns.

- Progress made since the start of asset return and sustainable development meeting series

Andrea Iff, Policy Advisor Asset Recovery, Deputy Head Peace, Governance and Equality Section, Swiss Agency for Development Cooperation SDC, focused her presentation on the progress made since the first International Expert Meeting on the management and disposal of recovered and returned stolen assets, including in support of sustainable development that took place in Addis Ababa in February 2017 (Addis I). In this regard, she highlighted some milestones in the overall discussion regarding SDGs and asset return, namely the Addis Ababa Action Agenda adopted at the 3<sup>rd</sup> International Conference on Financing for Development in July 2015 and the 2030 Agenda for Sustainable Development adopted in that same year. She also shared information on the series of meetings focusing on asset return and the SDGs, namely the Addis I meeting, the International Expert meeting on the return of stolen assets that took place in Addis Ababa from 7 to 9 May 2019, and to the outcomes of such meetings and the work executed in connection with them. Furthermore, she emphasized the GFAR principles and the importance of transparency and accountability in the context of asset return.

- Financing for Development and other New York-based processes

Gilberto Duarte, Crime Prevention and Criminal Justice Officer, UNODC, started his intervention by giving a brief overview of the functions of the General Assembly of the United Nations, the chief deliberative, policymaking and representative organ of the United Nations. He highlighted the Main Committees, namely the Disarmament and International Security Committee (First Committee); the Economic and Financial Committee (Second Committee); the Social, Humanitarian and Cultural Committee (Third Committee); the Special Political and Decolonization Committee (Fourth Committee); the Administrative and Budgetary Committee (Fifth Committee); and the Legal Committee (Sixth Committee). He also provided information on several recently adopted resolutions that (a) demonstrated a strong support for the existing framework under the UNCAC, including Chapter V – Asset recovery, and (b) expressed the need for increasing cooperation for the return of assets and the need to eliminate “safe havens”. He highlighted the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, adopted by the General Assembly at its special session against corruption, held in 2021, which contains a section focused on asset recovery. He also referred to some resolutions recently adopted by the Third Committee on the matter. In the ensuing discussions, experts noted the importance of asset recovery as a tool to combat corruption, particularly due to its deterrence effect and highlighted the importance of asset return to mitigate the effects of corruption. A speaker also referred to the difficulty of collecting data, which makes it very hard to accurately determine the amounts of assets that have been returned, and their actual effect in the achievement of the SDGs.

## **VII. Session III: Asset return and sustainable development in practice I: recent cases**

Session III was moderated by Mr. Iker Lekuona, Head of Programmes, International Centre for Asset Recovery (ICAR). Session III aimed at sharing lessons learned from practical asset return cases and address how asset return can contribute to the achievement of the SDGs. For this purpose, three asset return cases were presented by experts from requested and requesting States.

- Switzerland and Uzbekistan

Christian Frutiger, Ambassador and Vice-Director General of the Swiss Agency for Development and Cooperation, started his intervention by explaining Switzerland's experience with the return of proceeds of crime. He highlighted the importance of building mutual trust and underscored how his country worked closely with requesting States, as each case was unique and required a tailored solution. Transparency and accountability were also listed as crucial principles for successful returns.

Regarding the return of proceeds of crime from Switzerland to Uzbekistan, the panelist explained that in 2022, the two countries signed an agreement on the return of assets that had been confiscated in the criminal proceedings against Gulnara Karimova. He mentioned that the agreement had as a background the contribution to the implementation of the SDGs in Uzbekistan and as such, benefiting its population. The three-year discussions had been held online due to the Covid. Nevertheless, he stressed that, even without having met in person, they had been able to build a relationship of trust. In addition, civil society was also engaged as part of the discussions.

The agreement provided for the creation of a new United Nations multi-partner trust fund. In terms of values, he informed the experts that approximately USD 131 million were available to be returned at the time and that the total amount could increase significantly depending on the ongoing criminal proceedings. Decisions on project proposals etc. were taken by consensus by the members of the Management Committee on the fund, namely, Uzbekistan, Switzerland and the United Nations through the Resident Coordinator in Tashkent. Furthermore, the engagement of Civil Society was an important component of the fund, and a Civil Society Advisory Committee had been established to accompany the implementation of the return.

Complementing Christian Frutiger's intervention, Ilkhom Norkulov, First Deputy Minister of the Ministry of Economic Development and Poverty Reduction of Uzbekistan, highlighted the importance of ensuring that the returned funds were used to benefit the population of Uzbekistan in a transparent and accountable manner. He referred to the different challenges and needs that Uzbekistan had identified, such as the need for the construction of new schools. He noted that the main objective and challenge was to ensure that the returned assets made a real and positive impact on people's lives. For that purpose, he underscored the importance of working together with the different UN agencies, as projects were to be implemented by the UN agencies participating in the fund, in cooperation with various other implementing partners, including civil society. To conclude, he listed some areas of focus that had already been identified in partnership with the different stakeholders aiming at improving education and healthcare. Jonas Astrup, Senior Programme Management Officer for the multi-partner trust fund in the United Nations Resident Coordinator Office in Uzbekistan, reaffirmed the importance of transparency, accountability and ensuring that the projects implemented had a meaningful and lasting impact. He explained that the UN had already implemented projects using multi-trust funds and was confident that, based on past experience and practices, it would successfully do it once again.

He briefly described the funds governance and organizational structure, which included the High-Level Strategic Committee, the Management Committee, the fund secretariat and the participating UN specialized agencies and organizations. In this regard, noting the strong role of civil society, he also referred to the Civil Society Advisory Committee. The objective of the committee was to ensure the engagement of civil society in the fund's governance and project implementation. Through this committee, whose terms of reference were in the process of being drafted by civil society and which was foreseen to be established in February 2023, civil society was going to be able to provide independent advisory function to the fund's Management Committee and review the Fund's promotion of core principles of the UN Sustainable Development Cooperation Framework (UNSDCF) for Uzbekistan, among others.

- United States of America to Peru

Mary Butler, Chief of the International Unit of the Money Laundering and Asset Recovery Section of the Department of Justice of the United States, started her intervention by explaining that the expression “restitution” had a specific meaning under US Law, and was only available in cases where a direct pecuniary loss was identified. As such, she noted that her department focused on asset return and repatriation. In addition, she gave an overview of the US practice in this regard. She noted that they had a flexible approach, as each case is unique, but were always bound by the UNCAC and guided by the GFAR principles, including building a strong partnership with requesting States and transparency and accountability.

Subsequently, she referred to the returns from the US to Peru of approximately USD 650,000 and USD 45,000 regarding forfeited proceeds of crime linked to bribes paid by Odebrecht S.A. (Odebrecht), a Brazil-based global construction conglomerate, to the former Peruvian President Alejandro Celestino Toledo Manrique (Toledo). In 2019–2020, following an admission by Odebrecht of having paid bribes in 11 countries, the United States Department of Justice (US DOJ) filed civil non-conviction-based confiscation complaints against two assets in the US representing bribes of approx. USD 686,000, which resulted in the confiscation of such assets.

Regarding the return, she explained that, as with every return, one of the main objectives was to identify projects together with Peru that would benefit the people harmed by the acts of corruption. It was agreed that the funds were to be used to address the vulnerabilities that lead to the corrupt acts in the first place.

Following Mary Butler’s presentation, Gonzalo Bonifaz Tweddle, Senior Advisor of the Ministry of Foreign Affairs of Peru, referred to recent successful asset return cases in Peru and stressed that they were the result of joint efforts. He highlighted (a) that there was no single formula: there were common elements that could serve as a guide, but each case had to be carefully analysed and the strategy adopted must be defined taking into account the case-specific variables; (b) the importance of building trust between requested and requesting States (c) the need for coordination and cooperation among the national authorities; and (d) the importance of publicity.

He noted that the points highlighted were also present in the case with the United States. Specifically, he emphasized that the trust built between the authorities from Peru and the US was key for the success of the case. Based on this trust, Peru opted for cooperating with the US instead of opening a formal request for international judicial assistance or intervening in the civil forfeiture of assets lawsuit, which may have contributed to a speedier conclusion of the process for the returning of the assets. Another challenge described by the panellist was the allocation of the returned assets.

- Chile – Honduras

Luis Javier Santos Cruz, Head of the Specialized Prosecutor’s Unit Against Corruption Networks of the Prosecutor-General’s Office of Honduras, gave an overview of the case that resulted in the return of approximately USD 152,683. He explained that, as a result of the investigations carried out by the Prosecutor-General’s Office, several corrupt acts in the Honduran Institute of Social Security (IHSS) and a transnational corruption network were uncovered, which led to the opening of thirty-three lines of investigation. The investigations showed that money diverted by Mr. Zelaya, former Executive Director of IHSS, was transferred to Chile for the benefit of Ms. Ciuffardi, a Chilean national (approximately USD 700,000).

Mauricio Fernández Montalban, Director of the Anti-Money Laundering Unit of the Prosecutor-General’s Office in Chile, explained that Chile had received a mutual legal assistance (MLA) request from Honduras regarding the extradition of Ms. Ciuffardi and, in connection with such request, the preservation of the related assets of illicit origin. Following the MLA request, the prosecutors in Chile also decided to open their own money-laundering investigation to ensure that the assets were preserved for the purposes of potential confiscation.

As the Chilean Supreme Court refused to surrender its national, Mr. Fernández stated that the strategy of charging them with money laundering and initiating conviction-based confiscation proceedings in Chile based on those charges proved to be right. Ms. Ciuffardi was sentenced to five years of prison and the assets attributable to the funds she had received from Mr. Zelaya were confiscated. These assets were liquidated and the value was transferred to an account belonging to the Embassy of Honduras in Chile. In order for this to happen – as normally the confiscated assets would be assigned to specific purposes – the prosecutors in Chile had to demonstrate to the Chilean court the requirement to return the assets under the UNCAC.

In addition, Mr. Santos highlighted that one key element of this return was the open dialogue that took place between the prosecutors of Honduras and Chile. Furthermore, he explained that the money transferred to account opened in the Embassy’s name was subsequently transferred to OABI, the Honduran entity responsible for the administration of seized and confiscated assets. OABI then transferred the assets back to the IHSS, from which they had originally been diverted.

In the ensuing discussions, the importance of the participation of civil society in the return of assets was underscored, including suitable instances for such engagement, which would depend on the particularities of each case. The importance of transparency was also emphasized and examples in this regard were shared by participants.

## **VIII. Session V – Asset return and sustainable development in practice II: recent cases**

Session V was chaired by Emile van der Does de Willebois, Coordinator of the Stolen Asset Recovery (StAR) Initiative. The session aimed to share lessons learned from practical asset return cases and address how asset return could contribute to the achievement of the Sustainable Development Goals.

- Jersey and Kenya

Wanjiku Wakogi, Special Legal Advisor, and Clinton Mwita, Senior Legal Officer, both from the Executive Office of the President of Kenya, presented the Framework for Return of Assets from Corruption and Crime in Kenya (“FRACCK agreement”) together with Thomas LeFeuvre, Director of External Relations and Frederick Holmes, Principal External Relations Officer of the Government of Jersey. The panellists started their presentations by explaining that the FRACCK was a multilateral initiative of the Government of Kenya in partnership with the Governments of the United Kingdom, Switzerland and Jersey, and informing experts that the agreement was open for other like-minded countries to join, should they wish to do so. The panellists indicated that FRACCK reflected existing anticorruption commitments such as the Convention and the GFAR principles and outlined the governance structure and guiding principles of the agreement, noting the importance of ensuring transparency and accountability in the returns and using returned assets for mutually agreed upon projects in support of sustainable development objectives that benefit the people of Kenya. Furthermore, they informed the experts of a recent return of assets to Kenya from Jersey that took place under the FRACCK and shared information on successes and challenges in the implementation of the agreement. Chris Murgatroyd, Governance Director of Crown Agents, shared information on how returned funds were being used to support health care projects related to the COVID-19 pandemic.

- Malaysia and the United States

Mary Butler, Chief of the International Unit of the Money Laundering and Asset Recovery Section at the United States Department of Justice, and Asrul Ridzuan B Ahmad Rustami, Head of Anti-Money Laundering Branch at the Malaysian Anti-Corruption Commission, informed the experts of asset returns from the United States to Malaysia. In relation to the 1 MDB Malaysian Government Investment Fund,

the panellists noted that approximately USD 2 billion in criminal proceeds had been invested in the United States or moved through banks in the United States. Assets such as a movie production company, a hotel and management company, a yacht and a jet as well as luxury real estate and fine arts that had been owned through shell companies and trusts were confiscated by the US Department of Justice largely through non-conviction based forfeiture. The panellists shared information that these assets have been returned to Malaysia through mechanisms such as international sharing based on cooperation, remission based on pecuniary loss, and voluntary/negotiated returns. The panellists informed the experts that the first return had taken place in 2020 and that Malaysia had requested the rapid return of assets to avoid defaulting on debts in bonds. At the time of the meeting, Malaysia had recovered more than USD 4.9 billion from around the world through its own confiscation proceedings, returns from other countries, and civil damages litigation, with more assets still pending confiscation and return and pending civil damages litigation. The panellists also shared lessons learned in relation to obtaining information on the beneficial owners of assets, the need to cooperate closely with financial intelligence units, and the need to ensure close domestic and international cooperation.

- Mongolia

Azjargal Gavaasuren, Deputy Commissioner General of the Independent Authority against Corruption of Mongolia, presented the five-level model his office had been using for asset recovery, moving from traditional investigative methods to research and analysis, to financial investigations and international cooperation to successfully recover stolen assets. Through this approach, he noted that Mongolia had successfully recovered a total of USD 12.2 million. The panellist briefed the experts on case example in which Mongolia had successfully obtained ownership of a property located in the centre of London. The property was then rented out and the income used in educational purposes for children, in support of sustainable development. Referring to the lessons learned from Mongolia's asset return experience, the panellist noted the success of the five-level model, underscored the importance of using the Convention as a tool for requests for mutual legal assistance and highlighted the usefulness of the partnership that his country had created with the StAR Initiative to support asset recovery efforts.

In the ensuing discussion, experts discussed various aspects of the case examples and shared information on good practices and challenges in relation to the identification of beneficial owners of property. Responding to a question, panellists shared more details on the FRACCK in relation to the management structure and monitoring, the priorities for use of the returned funds, which had been amended in view of the ongoing COVID-19 pandemic, and the involvement of civil society actors in asset return agreements and the monitoring of the use of returned assets.

## **IX. Session VI – Reaping the rewards – the effect of asset returns on sustainable development**

Session V was chaired by Jennifer Gitiri, Deputy Director of Legal Services at the Kenyan Assets Recovery Agency, and focused on showcasing concrete examples in which returned assets had contributed towards the achievement of the Sustainable Development Goals.

Baurzhan Kurmanov, Head of the Department for International Cooperation of the Prosecutor-General's Office of Kazakhstan, shared information on the "Stolen Asset Recovery Project" that his office had been implementing after identifying issues related to financial investigations that had led to a low rate of execution of mutual legal assistance requests for evidence, seizure or recovery of assets. As part of the project, the Prosecutor-General's Office developed short, simple guidelines based on background material provided by international organizations, using international good practices as a basis and adapting them for investigators and prosecutors in

Kazakhstan. In addition, investigations were adjusted to focus simultaneously on the predicate offences and on money-laundering. Mr. Kurmanov highlighted the support provided by UNODC in facilitating contact with different jurisdictions and shared information on assistance provided by the StAR Initiative in joining asset recovery interagency networks and further developing guidelines and templates. He underscored that Kazakhstan had recovered over USD 1.3 billion, of which more than USD 400 million were recovered from abroad. In addition, the panellist informed the experts that, on 26 November 2022, the President of the Republic had issued a decree tasking the government, the Prosecutor-General's Office and other authorities with the development and submission to Parliament of a draft law aimed at the formation of a special State fund to distribute recovered assets to finance social and economic projects aimed at improving the welfare of the people of Kazakhstan, ensuring transparency of the stolen asset recovery processes, and encouraging the voluntary return of illegally obtained assets to the State.

Juliet Ibekaku-Nwagwu, Adviser to the President on Justice Sector Reform/International Relations, Nigeria, shared information on the amount of assets that had already been returned to Nigeria as well as the amounts of assets whose return to Nigeria was being negotiated at the time of the expert meeting. Furthermore, she shared information on the transparency measures that had been established in the agreements for the disbursement of returned funds, highlighting especially the role of the Nigeria Sovereign Investment Authority and civil society organizations and third parties, as well as of independent auditing, in the monitoring of the use of returned assets. The panellist also informed the experts of the efforts to ensure that returned funds were used for projects that had an impact on the development priorities identified by Nigeria and that aligned with the Sustainable Development Goals. She noted that, while successful asset returns took time and required expertise in different fields such as international law, international cooperation and financial crime and the process to achieve such a return was a costly one, with support, countries could trace and recover stolen assets.

Adding to the presentation, David Ugolor, Executive Director of the Africa Network for Environment & Economic Justice, briefed the experts on the MANTRA (Monitoring of Recovered Assets through Transparency and Accountability) model that his organization had been using in the monitoring of the disbursement and end use of returned funds ("Abacha II"). Through this model, civil society had been monitoring the disbursement of funds to vulnerable community members made through a direct cash transfer programme under the National Social Safety Net Project. Sharing lessons learned from the monitoring project, he highlighted the importance of facilitating the alliance between civil society from requesting and requested States to create a sustained civic platform for asset recovery, the need to engage society and involving downstream civil society organizations and the need to have a continuous, effective engagement with public institutions to facilitate collaboration between civil society organizations and government, thereby ensuring the sustainability of programmes beyond the individual project cycle.

Gad Peter Shamaki, Executive Director of the CLEEN Foundation, informed the experts that the CLEEN Foundation had been appointed by the Federal Government of Nigeria and the Government of the United States of America as the civil society organization to provide effective monitoring of the implementation of a tripartite agreement on the sharing, transfer, disposition, repatriation, and management of forfeited assets amounting to USD 311.8 million. He noted that the returned assets were to be used for the benefit of the Nigerian people by supporting the development of infrastructure projects, in particular the Abuja-Kano Road, the Second River Niger Bridge and the Lagos-Ibadan Expressway. The panellist informed the experts that monitoring was carried out through site visits to the project locations and highlighted the awareness-raising and visibility efforts the foundation was undertaking to provide the population with information on the ongoing projects.



## X. Session VII: Asset return and the compensation of victims of corruption

Session VII was moderated by Felipe Falconi from UNODC and the panellists were: (a) Lucio Alves Angelo Jr., Ph.D. Candidate in Rule of Law and Global Governance, University of Salamanca; (b) Juanita Olaya Garcia, Consultant, StAR Initiative; and (c) François Valérian, Member of the international board of Transparency International and of the board of Transparency France. The session aimed at contributing to the ongoing debate on the compensation of victims of corruption and the main challenges in this regard.

The moderator started the session by highlighting the consensus about corruption not being a victimless crime as it *inter alia* increased inequality and hampered the achievement of the SDGs. He also referred to a paper on the compensation of victims of corruption under development by the StAR Initiative and asked Juanita Olaya, as one of the main authors, to provide an overview of the main findings, namely in connection to the compensation of social damages.

Ms. Olaya explained that corruption also hampered diffuse and collective rights. She mentioned that that type of damages, i.e. collective damages, may not be direct but it was immediate and also needed to be repaired. As examples, she referred to the lack of enjoyment of public services, such as health care and education. In addition, she listed the different legal avenues for the compensation of victims, including civil and criminal proceedings, and other “collective” procedures, such as class actions. She also mentioned that not every reparation needed to be litigated and referred so mechanisms outside the judicial system for the reparation of victims (not necessarily corruption victims) and stressed their importance.

François Valérian underscored the need for giving victims a voice. In this context, he referred to the importance of also extending legal standing to specialized anti-corruption civil society organizations. As an example, he highlighted a decision of France’s *Cour de cassation*, dated 09 December 2010, in which Transparency international France was recognized to have legal standing as *partie civile* in the case known as “*Bien mal acquis*”. He also cited the recently adopted law in France that allowed anti-corruption associations to be granted the rights reserved to *parties civiles*.

Following his intervention, Lucio Alves referred to the importance given by the international community to the compensation of victims of corruption. To illustrate this, he noted that the expression “victims” was employed several times in the UNCAC in different contexts. Furthermore, he referred to cases where the State, including state owned companies, could be considered as victim and gave some concrete examples withing the Brazilian context.

To conclude, Juanita Olaya highlighted some of the conclusions of the StAR Initiative publication, including (a) the need for more transparency in connection with judicial cases on reparation; (b) the need to modify restrictive legislation on legal standing to allow citizens and associations to make claims for collective reparation; and (c) the importance of non-judicial reparation that may be achieved by, for example, the creation of funds for that purpose. Subsequently, Lucio Alves explained two collective actions available in Brazil namely the civil public action and the popular action. François Valérian closed by emphasizing the importance of using the returned assets also to compensate the victims.

## XI. Conclusion and way forward

Before the closing session, Shervin Majlessi provided an overview of the process that had started in the two previous meetings on this topic in Addis Ababa and summarized the main discussions that took place during the meeting, including the different challenges and good practices that had been identified. He also referred to the

different bilateral meetings that had taken place between experts from requesting and requested jurisdictions and expressed the hope that they would contribute to the successful conclusion of ongoing cases.

The meeting was closed by his Excellency Mr. Christian Frutiger, Ambassador, Vice-Director General, Swiss Agency for Development Cooperation SDC, Federal Department of Foreign Affairs, by his Excellency Mr. Njuguna Ndung'u, Cabinet Secretary of the National Treasury and Economic Planning, Kenya, by Mr. Neil Walsh, Representative, Regional Office for East Africa, UNODC and by Mr. Stephen Jackson, United Nations Resident Coordinator in Kenya. The speakers emphasized the importance of asset recovery in the fight against corruption and the role it can play in the achievement of the SDGs and thanked the participants for the fruitful discussion.

Organizers and speakers highlighted that the three objectives of the meeting were achieved, in that the dialogue between the different practitioners from requesting and requested States had continued; the cases presented had examined how asset recovery and asset return can contribute to the achievement of the Agenda 2030, support the Financing for Development Process and contribute to the Addis Ababa Action Agenda; and participants had engaged in exchanges and learnt from latest developments, including recent successful asset return cases. They highlighted the importance of continuing the dialogue for successful asset returns, including through experts' meetings dedicated to the topic.

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